

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

PAUL ROGERS,
Plaintiff,
v.
CAROLINE HARDY, et al.,
Defendant.

Case No. C05-5231 FDB

ORDER ADOPTING REPORT AND
RECOMMENDATION GRANTING
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT
DISMISSING PLAINTIFF'S CLAIMS
WITH PREJUDICE

This matter comes before the Court on the Report and Recommendation of the Magistrate Judge that Defendants' motion for summary judgment on the merits be granted and Plaintiff's claims be dismissed with prejudice.

Plaintiff filed this pro se civil rights action alleging that he was denied access to the courts in violation of his constitutional rights when Washington State corrections center mailroom employees wrongfully withheld his legal mail, causing him to miss a deadline for filing a personal restraint petition in state court.

As detailed by the Magistrate Judge, Plaintiff has failed to establish that the delay of receipt of legal mail is of legal significance, even though an actual injury, missing a filing deadline, occurred in this case. Delay in inmate receipt of legal materials do not necessarily result in an access to courts violation, so long as the delays are the prudent product of prison regulations reasonably related to legitimate penological interests. Lewis v. Casey, 518 U.S. 343, 349-52 (1996). It is undisputed

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1 that the corrections facility has a legitimate penological interest in providing security and safety. This
2 interest includes the inspection of incoming and outgoing mail to prevent the passing of contraband,
3 or other material that threatens to undermine security. The practice of delivering mail within 24
4 hours of receipt, excluding weekends and holidays, is rationally related to the legitimate interest of
5 ensuring safety and security of the facility.

6 Plaintiff's Objection to the Report and Recommendation does not convince this Court
7 otherwise. The Court, having reviewed the Report and Recommendation of Magistrate Judge Karen
8 L. Strombom, the Objections filed by Plaintiff, and the remaining record, does hereby find and
9 ORDER:

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11 (1) The Court adopts the Report and Recommendation;
12 (2) Defendants' Motion for Summary Judgment (Dkt. # 60) is **GRANTED** and Plaintiff's
13 claims dismissed in their entirety, with prejudice.
14 (3) The Clerk is directed to send copies of this Order to Plaintiff, counsel for Defendants
15 and to the Hon. Karen L. Strombom.

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17 DATED this 22nd day of June, 2007.

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19 FRANKLIN D. BURGESS
20 UNITED STATES DISTRICT JUDGE
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